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Laboratory Corporation of America Holdings d/b/a Labcorp

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ZOE VETTE, Plaintiff, v. LABORATORY CORPORATION OF AMERICA HOLDINGS d/b/a LABCORP, Defendant.	Civil Action No.: 3:16-CV-09580-PGS-LHG **ANSWER, AND** **AFFIRMATIVE DEFENSES**

Defendant Laboratory Corporation of America Holdings d/b/a Labcorp ("LabCorp" or "Defendant"), by and through its attorneys, Kelley Drye & Warren LLP, hereby answers the Complaint of Plaintiff Zoe Vette ("Plaintiff"), as follows:

RESPONSE TO "PRELIMINARY STATEMENT"

1. Defendant admits that Plaintiff purports to make the referenced claims in Paragraph 1 of the Complaint, but otherwise deny that Plaintiff was the subject of discrimination under the Age Discrimination in Employment Act ("ADEA"), the New Jersey Law Against Discrimination ("NJLAD"), or the Pennsylvania Human Relations Act ("PHRA").

2. Defendant admits that Plaintiff purports to make the referenced claims in Paragraph 2 of the Complaint, but otherwise deny that Plaintiff was the subject of discrimination under the ADEA, NJLAD, or the PHRA.

RESPONSE TO "JURISDICTION AND VENUE"

3. Defendant denies the allegations contained in Paragraph 3 of the Complaint on the grounds that it states a legal conclusion.

4. Defendant denies the allegations contained in Paragraph 4 of the Complaint on the grounds that it states a legal conclusion.

RESPONSE TO "PARTIES"

5. Defendant denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Complaint.

6. Defendant denies the allegations contained in Paragraph 6 of the Complaint, except admits that LabCorp maintains a place of business located at 69 First Avenue, Raritan, New Jersey 08869.

7. Defendant denies the allegations contained in Paragraph 7 of the Complaint on the grounds that it states a legal conclusion.

8. Defendant denies the allegations contained in Paragraph 8 of the Complaint on the grounds that it states a legal conclusion.

RESPONSE TO "STATEMENT OF FACTS"

9. Defendant denies the allegations contained in Paragraph 9 of the Complaint, except admits that Plaintiff's first day of work at LabCorp was November 3, 2008 and her last day of work was January 13, 2015.

10. Defendant denies the allegations contained in Paragraph 10 of the Complaint, except admits that Plaintiff's starting title was Key Account Executive and that she was promoted to Specialty Development Executive.

11. Defendant denies allegations contained in Paragraph 11 of the Complaint, except admits that in her role of Specialty Development Executive, Plaintiff initially reported to Regional Manager of Business Development Jane Devine in the South New Jersey/Delaware territory.

12. Defendant denies the allegations in Paragraph 12 of the Complaint, except admits that territories assigned to Specialty Development Executives and Regional Manager of Business Development were reorganized in April of 2014.

13. Defendant denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Complaint.

14. Defendant denies knowledge of information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint.

15. Defendant denies the allegations contained in in Paragraph 15 of the Complaint.

16. Defendant denies the allegations contained in Paragraph 16 of the Complaint.

17. Defendant denies the allegations contained in Paragraph 17 of the Complaint.

18. Defendant denies the allegations contained in Paragraph 18 of the Complaint.

19. Defendant denies the allegations contained in Paragraph 19 of the Complaint, except admits that territories assigned to Specialty Development Executives and Regional Manager of Business Development were reorganized in January 2015.

20. Defendant denies the allegations contained in Paragraph 20 of the Complaint, except admits that Plaintiff's position was eliminated through a reduction in force.

21. Defendant denies the allegations contained in Paragraph 21 of the Complaint.

22. Defendant denies the allegations contained in Paragraph 22 of the Complaint.

RESPONSE TO "COUNT I (ADEA – Age Discrimination) Plaintiff vs. Defendant"

23. Defendant repeats and re-alleges each and every response set forth in Paragraphs 1 through 22 of the Answer, as it fully set forth herein.

24. Defendant denies the allegations contained in Paragraph 24 of the Complaint on the grounds that it states a legal conclusion.

25. Defendant denies the allegations contained in Paragraph 25 of the Complaint and denied that LabCorp caused Plaintiff to suffer any injury or damages, including the injury and damages alleged in Paragraph 25 of the Complaint.

26. Defendant denies the allegations contained in Paragraph 26 of the Complaint and denied that LabCorp caused Plaintiff to suffer any injury or damages, including the injury and damages alleged in Paragraph 26 of the Complaint.

RESPONSE TO "COUNT II (NJLAD – Age Discrimination) Plaintiff v. The Defendant"

27. Defendant repeats and re-alleges each and every response set forth in Paragraphs 1 through 26 of the Answer, as it fully set forth herein.

28. Defendant denies the allegations contained in Paragraph 28 of the Complaint on the grounds that it states a legal conclusion.

29. Defendant denies the allegations contained in Paragraph 29 of the Complaint and denied that LabCorp caused Plaintiff to suffer any injury or damages, including the injury and damages alleged in Paragraph 29 of the Complaint.

RESPONSE TO "COUNT III (PHRA – Age Discrimination) Plaintiff v. Defendant"

30. Defendant repeats and re-alleges each and every response set forth in Paragraphs 1 through 29 of the Answer, as it fully set forth herein.

31. Defendant denies the allegations contained in Paragraph 31 of the Complaint on the grounds that it states a legal conclusion.

32. Defendant denies the allegations contained in Paragraph 32 of the Complaint and denied that LabCorp caused Plaintiff to suffer any injury or damages, including the injury and damages alleged in Paragraph 32 of the Complaint.

33. Defendant denies the allegations contained in Paragraph 33 of the Complaint and denied that LabCorp caused Plaintiff to suffer any injury or damages, including the injury and damages alleged in Paragraph 33 of the Complaint.

RESPONSE TO "PRAYER FOR RELIEF"

34. Defendant repeats and re-alleges each and every response set forth in Paragraphs 1 through 33 of the Answer, as it fully set forth herein.

The unnumbered clause of the Complaint under the heading "Claims for Relief" and associated subparagraphs A – E set forth a demand for relief to which no response is required. To the extent a response is required, Defendant denied that Plaintiff is entitled to any relief whatsoever, including the relief requested in the Complaint.

GENERAL DENIAL

Defendant denied each and every allegation in the Complaint not specifically admitted herein.

AFFIRMATIVE DEFENSES

Defendant asserts the following defenses without conceding that Defendant bears the burden of proof as to any of them. Defendant reserves the right to assert such additional defenses that may appear and prove applicable during the course of this litigation.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

SECOND AFFIRMATIVE DEFENSE

Subject to proof through discovery, Plaintiff's claims are barred, in whole or in part, by the doctrines of laches, unclean hands, estoppel, waiver, or other equitable defenses.

THIRD AFFIRMATIVE DEFENSE

Defendant cannot be held liable for punitive damages because it made a good faith effort to comply with the applicable statutes.

FOURTH AFFIRMATIVE DEFENSE

Defendant acted in good faith and without malice, willfulness, reckless indifference, or evil intent.

FIFTH AFFIRMATIVE DEFENSE

Each and every action taken by Defendant with regard to Plaintiff was based on legitimate, non-retaliations, and non-discriminatory reasons.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff has no damages, or, alternatively, has failed, refused, and/or neglected to mitigate or avoid the damages complained of in her Complaint, if any.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because Defendant LabCorp had policies and procedures in effect, and Defendant exercised reasonable care to prevent and correct promptly any retaliatory or discriminatory behavior and Plaintiff unreasonably failed to take advantage of preventative and corrective opportunities provided by Defendants or to otherwise avoid harm.

EIGHTH AFFIRMATIVE DEFENSE

Subject to proof through discovery, Plaintiff's request for relief is barred, in whole or in part, by the after-acquired evidence doctrine.

NINTH AFFIRMATIVE DEFENSE

Plaintiff failed to apply for the available Specialty Development Executive position in January 2015.

TENTH AFFIRMATIVE DEFENSE

The Complaint, in whole or in part, fails to state a claim upon which relief can be granted or upon which damages can be sought under the ADEA, NJLAD, and PHRA.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred to the extent LabCorp would have made the same decision to terminate Plaintiff's employment absent any impermissible motivating factors.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff's position was eliminated through a legitimate, non-discriminatory reduction in force.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendant reserves the right to assert additional defenses as Plaintiff's claims are clarified in the course of this litigation.

WHEREFORE, Defendant requests judgment be entered against Plaintiff dismissing the Complaint in its entirety and granting LabCorp such other and further relief as the Court may deem necessary and proper.

Dated: January 24, 2017

Respectfully submitted,

/s/ Robert I. Steiner

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following counsel of record:

William Rieser, Esq. (ID #: 045032011)
Sidney L. Gold & Associates, P.C.
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Phone: (215) 569-1999

Attorneys for Plaintiff

Dated: January 24, 2017

/s/ Robert I. Steiner
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